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July 21, 2023

Via ECF

Sharon A. King, U.S.M.J.
United States District Court for the District of New Jersey
Mitchell H. Cohen Building & U.S. Courthouse
Camden, NJ 08101

Re: Terruso v. Atlantic County, et als.
U.S.D.C. 1:21-cv-15288

Dear Judge King:

Please accept this letter application to stay discovery proceedings, pursuant to this Court's Text Order dated July 11, 2023 (ECF No. 87). This office represents defendants Hamilton Township and its police officers Denise Nelson, Cory Silvio, William Howze, Servando Pahang and Michael Schnurr in the above matter. An answer to the Plaintiff Estate's Second Amended Complaint will be filed with the Court on or before July 27.

On January 28, 2022, the Court entered an Opinion and Order, granting a previous motion to stay discovery, pending the resolution of the parallel criminal matter. (ECF Nos. 48, 49). On or about April 24, 2023, a State Court grand jury returned an indictment in the parallel criminal matter, charging each of the above-named Hamilton Township police officers with second-degree crimes of Official Misconduct and Conspiracy to Commit Official Misconduct. See Letter from Plaintiff's Counsel dated April 25, 2023. (ECF No. 74).

Plaintiff's subsequent motion to file an amended complaint was granted, and on July 6, 2023, the Estate's Second Amended Complaint was filed with the Court. The Second Amended Complaint alleges, *inter alia*, that the defendant Hamilton Township police officers committed official misconduct, violated the plaintiff decedent's constitutional rights, were deliberately

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indifferent to the decedent's serious medical needs, and were negligent. Further, Plaintiff alleges that the conduct of the Hamilton Township officers proximately caused the death of Mr. Terruso.

The analysis and rationale set forth by the Court with regard to the previous decision in January, 2022, to stay the civil case discovery proceedings pending the resolution of the parallel criminal matter, apply to the current procedural posture of the case. The criminal matter remains pending, and the parties in the civil action have not obtained relevant materials from the State's criminal investigation. There is a high likelihood of the defendant officers' asserting their Fifth Amendment rights during the pendency of the criminal investigation and prosecution, in the event depositions were to proceed at this time. As this Court held in the January 28, 2022 Opinion, 'since the criminal case stems from the same set of facts as the civil action, allowing the criminal matter to resolve would streamline the civil proceedings'. (ECF No. 48, at p.8). The Opinion further stated:

"If litigation were to proceed, this undoubtedly disadvantages the defendants. The Court also finds that all parties would be burdened if this matter were not stayed. None of the parties are armed with the totality of the documents and evidence seized by the NJAG during its investigation. Engaging in discovery without this information may be premature and may result in significant discovery extensions once the NJAG's documents are received. This factor weighs in favor of staying discovery." Id.

It is respectfully submitted that there is no basis to reverse Court's prior determination to stay the litigation, given the considerations set forth in its January 28, 2022 Opinion, and in Walsh Sec., Inc. v. Cristo Prop. Mgmt., Ltd., 7 F. Supp. 2d 523 (D.N.J. 1998). In view of the competing interests of the parties weighing in favor of staying the civil litigation, and in the interests of justice, the defendant Hamilton Township police officers request that the Court enter an Order staying discovery in this matter.

Thank you for your Honor's consideration.

Respectfully submitted,
REYNOLDS & HORN, PC

By: /s/ Thomas B. Reynolds
Thomas B. Reynolds, Esquire

Cc: All counsel (via ECF)

TBR/e